

VIRGINIA BOARD OF DENTISTRY

**Regulatory-Legislative Committee**

November 4, 2011 Agenda

Department of Health Professions  
Perimeter Center - 9960 Mayland Drive, 2<sup>nd</sup> Floor Conference Center  
Henrico, Virginia 23233

**TIME**

**PAGE**

**9:00 a.m.      Call to Order – Herbert R. Boyd, III, DDS, Chair**

**Public Comment**

**Approval of Minutes - September 8, 2011**

**P1-P8**

**Status Report on Regulatory Actions**

**Discussion of the Guidance Document for Recovery of  
Disciplinary Costs**

**P9-P12**

**Discussion of Legislative Proposals**

- **VCU School of Dentistry**
- **Virginia Dental Association**

**P13-P17**

**P18-P40**

**Next Meeting**

**Adjourn**

**VIRGINIA BOARD OF DENTISTRY  
MINUTES OF REGULATORY-LEGISLATIVE COMMITTEE  
SEPTEMBER 8, 2011**

**TIME AND PLACE:** The meeting of the Regulatory-Legislative Committee of the Board of Dentistry was called to order at 2:05 p.m., on September 8, 2011 in Board Room 4, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

**PRESIDING:** Herbert R. Boyd, D.D.S., Chair

**MEMBERS PRESENT:** Meera A. Gokli, D.D.S.  
Robert B. Hall, Jr., D.D.S.  
Jacqueline G. Pace, R.D.H.

**MEMBERS ABSENT:** None

**OTHER BOARD MEMBERS PRESENT:** Martha C. Cutright, D.D.S.  
Augustus A. Petticolas, Jr., D.D.S.

**STAFF PRESENT:** Sandra K. Reen, Executive Director  
Donna Lee, Discipline Case Manager

**OTHERS PRESENT:** Elaine Yeatts, Senior Policy Analyst, Department of Health Professions

**ESTABLISHMENT OF A QUORUM:** With all members of the Committee present, a quorum was established.

**PUBLIC COMMENT:** No public comments were received.

**APPROVAL OF MINUTES:** Dr. Boyd asked if the Committee members had reviewed the April 22, 2011 minutes. No changes or corrections were made. Dr. Gokli moved to accept the April 22, 2011 minutes. The motion was seconded and passed.

**STATUS REPORT ON REGULATORY ACTIONS:** Ms. Yeatts reported the following status update of regulations:

- Periodic Review and reorganization of Chapter 18 VAC 60-20 - Proposed regulations adopted on June 3, 2011;
- Training in pulp capping for Dental Assistants II – Fast-Track- at the Governor’s Office for signature;
- Radiation certification – Fast-Track- at the Secretary’s Office for approval;

- Recovery of Disciplinary Costs Regulations - are in final stage and are at the Governor's Office for signature; and
- Registration of Mobile Clinics – are in final stage and are at the Governor's Office for signature.

**Registration of Mobile Clinics** – Ms. Yeatts informed the Committee that there are currently no regulations in place for mobile dental clinics because the 6-month extension that was granted for the Emergency regulations expired on July 6, 2011. Ms. Yeatts further stated she has been in constant contact with the Governor's Office about the regulations.

Ms. Reen stated that the agenda materials for the Committee meeting need to be kept in order because they will be referenced in the Board Meeting tomorrow, September 9, 2011.

**PROPOSED DRAFT OF  
SEDATION/ANESTHESIA  
REGULATIONS:**

Ms. Yeatts stated that the requirement for registration of sedation/anesthesia permits was mandated by passage of Senate Bill 1146. She stated that the Draft emergency regulations need to be adopted by the Board at its meeting on September 9, 2011 and the emergency regulations need to go into effect on December 27, 2011 and will stay in effect for 12 months.

**Page P8**

18VAC60-20-10 – Dr. Hall suggested that for clarification purposes, there should be a separate definition for conscious sedation and moderate sedation instead of the combined wording "Conscious/moderate sedation."

After discussion, it was agreed that Ms. Yeatts would add a definition for "**Moderate sedation**" which directs the reader to the conscious/moderate sedation definition.

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18VAC60-20-30 – Ms. Yeatts explained the rationale for using the renewal date of March 31 and the application and renewal fees of \$100. Ms. Reen suggested that 18VAC60-20-30(J) be modified to show that the \$350 inspection fee does not apply to a routine inspection of a dental office that holds a sedation or anesthesia permit.

The Committee agreed with the suggestion made by Ms. Reen. The Committee instructed Ms. Yeatts to draft the necessary language to be added to the regulation for consideration by the Board.

**Page P13**

18VAC60-20-110(A) – Ms. Yeatts stated that the regulations for sedation/anesthesia permits should be effective on December 27, 2011 so there will be a 3-month time period for a dentist to apply for and be issued a permit by the Board if they are currently using deep sedation/general anesthesia in their dental office.

The Committee expressed concern as to whether the 3-month time period would be adequate time for a dentist to submit an application and be issued a permit. Ms. Yeatts stated that the regulations do not impose any new requirements upon any dentist that is currently using deep sedation/general anesthesia so a dentist would be able to make application once the regulations become effective and the application is available. There is also no inspection required before the issuance of the permit.

Ms. Reen informed the Committee that it would be too costly to do an inspection before a permit is issued. She also stated that the Board has no idea what dentists are currently using deep sedation/general anesthesia. Ms. Yeatts suggested notice could be posted on the website to inform the dentistry community that emergency regulations will go into effect on December 27, 2011, and list what equipment is needed for the permits. Ms. Reen said another option would be to publish the notice in **BRIEFS** possibly in mid to late October.

There was a consensus by the Committee to give notice in **BRIEFS** and to keep the March 31 renewal date for the permits.

Ms. Reen stated that she received a comment about oral and maxillofacial surgeon (OMS) not having a permit to post for the public to know they are authorized to administer. Ms. Givens, Virginia Society of Oral and Maxillofacial Surgeons, said that AAOMS does provide an OMS with a certificate that verifies membership in the organization.

The Committee agreed to add wording in 18VAC60-20-110(A) and (D) that an OMS shall post a certificate issued by AAOMS for consideration by the Board on September 9, 2011.

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18VAC60-20-110(H)(2) – Ms. Reen stated she was asked if providing the emergency number to a hospital would meet the requirements of this section.

After discussion, it was agreed to add after the word “number” the

words **“for the dental practice.”**

18VAC60-20-120(A) – Ms. Yeatts will add the same language about posting the AAOMS certificate that is used in 18VAC60-20-110(A) and (D).

18VAC60-20-120(C)(1)(c) – Ms. Yeatts stated that if a dentist were self-certified in anesthesia and conscious sedation prior to January 1989, a temporary permit will be issued for one year until a dentist can receive additional training or provide documentation to the Board that meets the requirements for the applicable permit.

Ms. Reen stated that the Board has to be cautious about issuing a permit without factual evidence to show qualifications. Ms. Yeatts said there is no provision for a dentist to be “grandfathered in” to qualify for the permit. The dentist would have to meet the same standards as set forth for anyone applying to obtain the permit to ensure that the best interest of the public is served.

Ms. Reen suggested that the Committee could change the temporary permit timeframe from one year to two years to allow a dentist time to provide proof of continuing education requirements for the standard permit.

Dr. Gokli moved to change the temporary permit from one-year to two years. The motion was seconded and passed.

#### **Page P18**

18VAC-60-20-120(G) - Ms. Yeatts will add the same language about posting the AAOMS certificate that is used in 18VAC60-20-110(A) and (D).

#### **Page P20**

18VAC60-20-120(I)(11) – Dr. Hall stated that he received telephone calls about whether an electrocardiographic monitor is necessary to have as a part of the required emergency equipment. He indicated that the consensus from the people he talked to was that it is better to be more cautious and have it as a part of the emergency equipment.

The Committee agreed to retain 18VAC60-20-120(I)(11) as part of the emergency equipment.

#### **Page P21**

18VAC60-20-120(K)(2) – Ms. Yeatts stated that after the word **“number”** the words **“for the dental practice”** will be added to

conform to the change made to 18VAC60-20-110(H)(2).

Dr. Gokli moved that the Committee recommend to the Board adoption of the Emergency Regulations for Dental Permits in General Anesthesia/Deep Sedation or Conscious/Moderate Sedation as amended. The motion was seconded and passed.

**RESPONSE TO  
PETITIONS FOR  
RULEMAKING ON  
RADIATION COURSES:**

**Page P23**

Ms. Yeatts reported that on June 3, 2011, the Board adopted regulations on radiation certification and Guidance Document 60-20 in response to the three petitioners' requests. She said the comment period on the petitions did not close until June 22, 2011 so the Board could not officially respond until now. Dr. Hall asked if individuals with certificates of completion from the programs that had been approved by the Board previously could still take x-rays. Ms. Reen responded yes but that it is stated in the regulation. Ms. Yeatts recommended that Guidance Document 60-20 be amended at this time, and the amendment can be made to the regulation during regulatory review.

Dr. Hall moved to recommend to the Board amendment of Guidance Document 60-20 to add a paragraph that anyone that met the requirements of 18VAC60-20-195 before March 11, 2011, is still qualified to place or expose dental x-ray film. The motion was seconded and passed.

Ms. Yeatts stated she would draft the specific language for presentation to the Board.

**DENTAL LABORATORY  
WORK ORDER FORMS:**

Ms. Reen informed the Committee that the initial drafts of two forms to be prescribed by the Board were reviewed at the December 3, 2010 meeting. At that time, the Board requested that the Committee develop the forms to make clear the intent is to prescribe the minimum content required by the Board and to consider whether the forms should be issued as a guidance document.

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The Committee agreed to amend the Dental Laboratory Work Order Form as follows:

- In the first paragraph at the top, line 2, bold the sentence "A licensee may use a different form only if all the required information on this form is collected and conveyed."
- At the bottom of the form, add a heading above the word "Laboratory" in bold print that says "Instructions to Lab".

**Page P36**

The Committee agreed to change the Dental Laboratory Subcontractor Work Order Form as follows:

- in the first paragraph at the top, line 3, bold the sentence: “**A different form may be used only if all the required information on this form is collected and conveyed.**”
- At the bottom of the form, add a heading above the word “**Subcontractor**” in bold print that says “**Instructions to Lab**”.

The Committee questioned if it would be a violation if a dentist did not provide and use the forms. Ms. Reen stated that the forms are required by §54.1-2719 of the Code of Virginia so a dentist could be disciplined for failing to meet the content requirements. Ms. Reen asked if these should be issued as a guidance document. Ms. Yeatts said they could just be issued as forms. The Committee asked that an explanation of the requirement for the use of the forms be mentioned in the next edition of BRIEFS.

Dr. Hall moved to recommend to the Board that the Dental Laboratory Work Order Form and Dental Laboratory Subcontractor Work Order Form as amended be adopted for use by its licensees as required by §54.1-2719 of the Code of Virginia. The motion was seconded and passed.

**AMENDMENT OF  
GUIDANCE DOCUMENT  
60-13:**

**Page P39**

Ms. Reen explained that an amendment is needed in Guidance Document 60-13 to be consistent with current regulations. Dr. Hall moved to amend item number 6(a) after the word “**anesthesiologist**” by adding the words “**or a qualified dentist.**” The motion was seconded and passed.

**DISCUSSION OF THE  
GUIDANCE DOCUMENT  
FOR RECOVERY OF  
DISCIPLINARY COSTS:**

Ms. Reen said that the regulations for Recovery of Disciplinary costs require a guidance document to address the fees to be assessed. She asked the Committee to begin development of the document with the goal of recommending adoption at the Board’s December 2, 2011 meeting. She then asked for discussion of draft she had prepared. The Committee and staff discussed how the costs would be calculated if a respondent were found guilty of some of the allegations, but not for all that were cited. Ms. Reen explained that when the Enforcement Division conducts an investigation, they have no idea what the Board’s decision will be in the case. Time is invested to get the information asked for by the Board. She stated that the costs will be a part of the order or consent order issued to the respondent. She reiterated that whatever process the Board uses to determine the costs, there must be consistency in collecting costs that will be incurred in investigating and monitoring a licensee.

Ms. Reen noted the Board of Dentistry is the pioneer for implementing this process in the Department of Health Professions. Some states charge costs based on proceedings, but those are not included in the Board's statute. Ms. Reen agreed to research how other states recover costs.

The Committee discussed concerns that a probable cause reviewer may consider the costs that might be imposed in making a decision and asked if they would know the costs. Ms. Reen answered yes and explained that the costs would be known generally because the Board has to adopt the guidance document. She also stated that the job of a probable cause reviewer is to find if a violation has occurred. She further stated that a reviewer should not consider costs, that each reviewer is responsible for consistency and fairness. Dr. Hall stated that proportionality of investigation costs to the conclusions of law has to be part of the consideration when making a determination about the appropriate costs.

The Committee reviewed the proposed worksheet on Page P49 and agreed to Ms. Yeatts recommendation of having a chart for investigation costs and one chart for monitoring. She informed the Committee that there are about 75 orders entered a year by the Board. She further stated that the financial return is likely to be minimal, so the Board may have to decide if this is a viable way for the Board to proceed to recover costs. Any order issued by the Board will have to specify the costs being recovered. Ms. Reen recommended including a base administrative cost.

Dr. Hall suggested that there should be an average fixed amount, maybe \$100 for 1 to 2 courses as illustrated on Page P48.

Dr. Gokli suggested that it should remain simple and start small similar to when the Sanction Reference Point study was initially implemented.

Ms. Reen stated that she would develop a one-sheet document that is consistent for everybody since it becomes a part of the order. A future meeting for the Committee will be planned so the document can be reviewed.

Ms. Reen reiterated about consistency in whatever document is developed. Since it is a part of the order, it can be appealed to Circuit Court. She added that any litigation of a case would cost more than the amount which might be recovered in fees.



Dr. Petticolas requested that a history of cases that have gone to Circuit Court be provided to the Committee at its next meeting.

**DISCUSSION OF THE  
GUIDANCE DOCUMENT  
ON ADVERTISING:**

Ms. Reen informed the Committee that she and Dr. Boyd have discussed the content for the requested guidance document on advertising and have received questions from Dr. Dickinson of the Virginia Dental Association that might be used in a Q & A format. Ms. Reen plans to review the questions with Mr. Casway before drafting a proposal for Committee discussion. Ms. Reen asked the Committee members to provide her with any questions they have been asked about advertising and she will put them forward for discussion.

Dr. Gokli questioned how it was possible for medical spas to advertise about teeth whitening without having a dentist present. Ms. Reen responded that it depends on what transpires between the person receiving the treatment and the person providing the treatment and whether it is considered the practice of dentistry. She stated that the Board has no jurisdiction over unlicensed practice so if there is a possible violation, the matter would be referred to the Commonwealth Attorney's Office.

**NEXT MEETING:**

The proposed date of the next meeting is October 21, 2011 at 9:00 a.m.

**ADJOURNMENT:**

Dr. Boyd adjourned the meeting at 5:15 p.m.

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Herbert R. Boyd, III, D.D.S, Chair

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Sandra K. Reen, Executive Director

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Date

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Date

**Virginia Board of Dentistry  
Regulatory/Legislative Committee  
November 4, 2011**

**Policy on Recovery of Disciplinary Costs**

At its September 8, 2011 meeting, the Committee discussed the guidance document needed to implement the recovery of disciplinary costs when regulations go into effect. Staff was asked to develop the draft as discussed. Staff was also asked to provide information on other states' practices, to develop the content and the costs outlined in the discussion draft and revise the worksheet to separate investigation costs and monitoring costs.

**Information from Other States' Dental Boards**

- Louisanna: The Committee may levy an administrative fine, but it shall assess all costs of the committee, including but not limited to attorney fees, investigative fees and expenses, witness fees and expenses, and stenographic costs. Not less than \$500 nor more than \$5000 for each offense. In addition, a \$15 fee for issuance of a subpoenas.
- Minnesota: The Board may impose a civil penalty not to exceed \$10,000 for each separate violation, the amount to be fixed so as to deprive a licensee of any economic advantage gained by reason of the violation, to discourage similar violations, or to reimburse the board for the cost of the investigation and proceeding including fees of the Office of Administrative Hearings, legal and investigative services of the Office of the Attorney General, court reporters, witnesses, reproduction of records, board per diem compensation, staff time, travel costs and expenses incurred.
- Nevada: May recover reasonable attorney's fees and costs incurred as part of its investigative, administrative and disciplinary proceedings if a violation is found.
- North Dakota: Is allowed to impose a fee for all or part of the costs of an action resulting in discipline, including administrative costs, investigation costs, attorney's fees, witness fees, the cost of the office of administrative hearings' services, and court costs.

There are no implementing policies or source for guidance on calculating costs. Costs are included in settlement agreements or awarded by the Court.

South Carolina:

A licensee found in violation of the applicable licensing act may be directed through an order to pay a sum not to exceed the reasonable costs of the investigation and prosecution of the case in addition to other sanctions.

A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the director, or the director's designee, is prima facie evidence of reasonable costs.

There are no implementing policies or source for guidance on calculating costs.

Tennessee:

Boards may require, in an order, a licensee in any disciplinary contested case proceeding to pay the actual and reasonable costs of the investigation and prosecution of the case.

There are no implementing policies or source for guidance on calculating costs.

Washington:

Permitted to assess a partial recovery of the hearing expenses. \$6000 for a full day, one half that amount for a partial day and investigative and hearing preparation expenses in an amount found to be reasonable but no more than \$10,000.

West Virginia:

Each board may assess administrative costs which shall be placed in the special account of the board. A person demanding a hearing may be required to give security for the costs of the hearing and if the demanding party does not prevail, such costs may be assessed against them and may be collected in a civil action or by other proper remedy.

**Virginia Board of Dentistry****Policy on Recovery of Disciplinary Costs****Applicable Law and Regulations**

- §54.1-2708.2 of the Code of Virginia.  
The Board may recover from any licensee against whom disciplinary action has been imposed reasonable administrative costs associated with investigating and monitoring such licensee and confirming compliance with any terms and conditions imposed upon the licensee as set forth in the order imposing disciplinary action. Such recovery shall not exceed a total of \$5,000. All administrative costs recovered pursuant to this section shall be paid by the licensee to the Board. Such administrative costs shall be deposited into the account of the Board and shall not constitute a fine or penalty.
- 18VAC60-20-18 of the Regulations Governing Dental Practice. The Board may assess:
  - the hourly costs to investigate the case,
  - the costs for hiring an expert witness, and
  - the costs of monitoring a licensee's compliance with the specific terms and conditions imposed up to \$5000, consistent with the Board's published guidance document on costs. The costs being imposed on a licensee shall be included in the order agreed to by the parties or issued by the Board.

**Policy**

In addition to the sanctions to be imposed which might include a monetary penalty, the Board will specify the costs to be recovered from a licensee in each pre-hearing consent order offered and in each order entered. The amount to be recovered will be calculated using the assessment of costs specified below and will be recorded on a Disciplinary Cost Recovery Worksheet (the worksheet). The Board may exercise discretion to apportion the investigation and inspection costs to be recovered to reflect the adopted Findings of Fact and Conclusions of Law. All other applicable costs will be assessed as set forth in this guidance document. When a pre-hearing consent order is offered, the probable cause reviewer or the executive director of the Board shall complete the worksheet. A special conference committee, a panel of the Board, or the Board shall complete the worksheet during its deliberations in closed session to decide a case.

**Assessment of Costs**

Based on the expenditures incurred in the state's fiscal year which ended on June 30, 2011, the following costs will be used to calculate the amount of funds to be specified in a board order for recovery from a licensee being disciplined by the Board:

- \$94 per hour for an investigation multiplied by the number of hours the DHP Enforcement Division reports being expended to investigate and report the case to the Board.
- \$97 per hour for an inspection conducted during the course of an investigation, multiplied by the number of hours the DHP Enforcement Division reports being expended to inspect the dental practice.
- The applicable administrative costs for monitoring compliance with an order as follows:
  - \$106.00 Base cost to open, review and close a compliance case
  - 48.75 For each continuing education course ordered
  - 15.75 For each monetary penalty payment
  - 15.75 For each practice inspection ordered
  - 31.50 For each records audit ordered
  - 89.00 For each practice restriction ordered, and
  - 73.25 For each report required.
- \$350 for each practice inspection or record audit ordered to be conducted by the DHP Enforcement Division.

**Draft**  
**Virginia Board of Dentistry**

**Disciplinary Cost Recovery Worksheet**

Case # \_\_\_\_\_ Order Entered: \_\_\_\_\_

Licensee: \_\_\_\_\_

Investigation Cost/hr		Enforcement Hour (# of hour x 94)		Sr. Inspectors Hour (# of hour x 97)	
# of Hours			\$0.00		\$0.00
# of Hours			\$0.00		\$0.00
Record Duplication			\$0.00		\$0.00
Expert Witness			\$0.00		\$0.00
Other			\$0.00		\$0.00
Total			\$0.00		\$0.00
Grand Total			\$0.00		

Recovery limited to \$ \_\_\_\_\_ because \_\_\_\_\_

Monitoring Cost/hr	Enter Each Cost That Applies (# of unit x cost per unit)	
Base Administrative Cost - \$106.00/case		\$106.00
Continuing Education - \$48.75/course		\$0.00
Monetary Penalty - \$15.75/payment		\$0.00
Practice Inspection - \$15.75/inspection		\$0.00
Record Audits - \$31.50/audit		\$0.00
Practice Restriction - \$89.00/restriction		\$0.00
Reporting Requirement - \$73.25/report		\$0.00
<b>Total</b>	\$106.00	

**Total for costs :** \_\_\_\_\_

*Maximum recovery is \$5,000*

VCU School of Dentistry Proposed Legislation for the 2012 General Assembly Session  
Approved by the VDA House of Delegates – September 23, 2011

**Background:** Proposed VCU Legislative Bill – Code of VA relating to the licensure of dental school faculty. If approved by the House of Delegates, VCU will take the following legislative bill to the 2012 General Assembly.

**Resolution:** The VDA supports the following bill to amend and reenact §§ 54.1-2709, 54.1-2711.1, 54.1-2712, 54.1-2713, 54.1-2714, and 54.1-2725 and to repeal § 54.1-2714.1, of the Code of Virginia, relating to the practice of dentistry and dental hygiene: (2011 Session of the General Assembly - Draft Legislation)

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2709, 54.1-2711.1, 54.1-2712, 54.1-2713, 54.1-2714, and 54.1-2725 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2709. License; application; qualifications; examinations.

A. No person shall practice dentistry unless he possesses a current valid license from the Board of Dentistry.

B. An application for such license shall be made to the Board in writing and shall be accompanied by satisfactory proof that the applicant (i) is of good moral character; (ii) is a graduate of an accredited dental school or college, or dental department of a university or college; (iii) has passed ~~Part I and Part II~~ all parts of the examination given by the Joint Commission on National Dental Examinations; (iv) has successfully completed a clinical examination acceptable to the Board; and (v) has met other qualifications as determined in regulations promulgated by the Board.

C. The Board may grant a license to practice dentistry to an applicant licensed to practice in another jurisdiction if he (i) meets the requirements of subsection B; (ii) holds a current, unrestricted license to practice dentistry in another jurisdiction in the United States and is certified to be in good standing by each jurisdiction in which he currently holds or has held a license; (iii) has not committed any act that would constitute grounds for denial as set forth in § 54.1-2706; and (iv) has been in continuous clinical practice for five out of the six years immediately preceding application for licensure pursuant to this section. Active patient care in the dental corps of the United States Armed Forces, volunteer practice in a public health clinic, or practice in an intern or residency program may be accepted by the Board to satisfy this requirement.

D. The Board shall provide for an inactive license for those dentists who hold a current, unrestricted dental license in the Commonwealth at the time of application for an inactive license and who do not wish to practice in Virginia. The Board shall promulgate such regulations as may be necessary to carry out the provisions of this section, including requirements for remedial education to activate a license.

E. The Board shall promulgate regulations requiring continuing education for any dental license renewal or reinstatement. The Board may grant extensions or exemptions from these continuing education requirements.

§ 54.1-2711.1. Temporary licenses to persons enrolled in advanced dental education programs and accredited continuing dental education programs; Board regulations.

A. Upon recommendation by the dean of the school of dentistry or the program director, the Board may issue a temporary annual license to practice dentistry to persons enrolled in advanced dental education programs, serving as dental interns, residents or post-doctoral certificate or degree candidates in hospitals or schools of dentistry that maintain dental intern, residency or post-doctoral programs accredited by the Commission on Dental Accreditation of the American Dental Association. ~~No such license shall be issued to a dental intern or resident or post-doctoral certificate or degree candidate who has not completed successfully the academic education required for admission to examination given by the Board.~~ Such license shall expire upon the holder's graduation, withdrawal or termination from the relevant program.

B. Such temporary license shall be for patient care activities associated only with the educational program and that take place only within educational facilities owned or operated by, or affiliated with, the dental school or program. The license holder shall not be permitted to practice dentistry in other offices or clinics.

C. The Board may prescribe such regulations not in conflict with existing law and require such reports from any hospital or the school of dentistry operating an accredited advanced dental education program in the Commonwealth as may be necessary to carry out the provisions of this section.

§ 54.1-2712. Permissible practices.

The following activities shall be permissible:

1. Dental assistants or dental hygienists aiding or assisting licensed dentists, or dental assistants aiding or assisting dental hygienists under the general supervision of a dentist in accordance with regulations promulgated pursuant to § 54.1-2729.01;
2. The performance of mechanical work on inanimate objects only, for licensed dentists, by any person employed in or operating a dental laboratory;
3. Dental students who are enrolled in accredited D.D.S. or D.M.D. degree programs performing dental operations, under the direction of competent instructors (i) within a dental school or college, dental department of a university or college, or other dental facility within a university or college that is accredited by an accrediting agency recognized by the United States Department of Education; (ii) in a dental clinic operated by a nonprofit organization providing indigent care; (iii) in governmental or indigent care clinics in which the student is assigned to practice during his final academic year rotations; (iv) in a private dental office for a limited time during the student's final academic year when under the direct tutorial supervision of a licensed dentist holding appointment on the dental faculty of the school in which the student is enrolled; or (v) practicing dental hygiene in a private dental office under the direct supervision of a licensed dentist holding appointment on the dental faculty of the school in which the student is enrolled;

4. A licensed dentist from another state or country appearing as a clinician for demonstrating technical procedures before a dental society or organization, convention, or dental college, or performing his duties in connection with a specific case on which he may have been called to the Commonwealth; and

5. Dental hygiene students enrolled in an accredited dental hygiene program performing dental hygiene practices as a requisite of the program, under the direction of competent instructors, as defined by regulations of the Board of Dentistry, (i) within a dental hygiene program in a dental school or college, or department thereof, or other dental facility within a university or college that is accredited by an accrediting agency recognized by the United States Department of Education; (ii) in a dental clinic operated by a nonprofit organization providing indigent care; (iii) in a governmental or indigent care clinic in which the student is assigned to practice during his final academic year rotations; or (iv) in a private dental office for a limited time during the student's final academic year when under the direct supervision of a licensed dentist or licensed dental hygienist holding appointment on the dental faculty of the school in which the student is enrolled; and  
6. A graduate of an accredited dental program or a graduate of an accredited dental hygiene program, engaging in clinical practice under the supervision of a licensed faculty member, only while participating in a continuing education course offered by a dental or dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association.

§ 54.1-2713. Faculty licenses to teach dentistry; renewals.

A. Upon payment of the prescribed fee and provided no grounds exist to deny licensure pursuant to § 54.1-2706, the Board shall ~~may~~ grant, without examination, a faculty license to teach dentistry in a dental program accredited by the Commission on Dental Accreditation of the American Dental Association to any applicant who ~~(i) is~~ meets any of the following qualifications:

1. Is a graduate of a dental school or college or the dental department of a college or university, approved by the Board of Dentistry; (ii) has a D.D.S. or D.M.D. degree and is otherwise qualified; (iii) is not has a current, unrestricted license to practice dentistry in at least one other United States jurisdiction, and has never been licensed to practice dentistry in the Commonwealth; (iv) has not failed an examination for a license to practice dentistry in Virginia; and (v) has a license to practice dentistry in at least one other state or

2. Is a graduate of a dental school or college or the dental department of a college or university, has completed an advanced dental education program accredited by the Commission on Dental Accreditation of the American Dental Association, and has never been licensed to practice dentistry in the Commonwealth.

~~The applicant shall also be certified to be on the faculty of an accredited program that teaches dentistry.~~

B. The dean or program director of the accredited dental program shall provide to the Board verification that the applicant is being hired by the program, and shall include an assessment of the applicant's clinical competency and clinical experience that qualifies the applicant for a faculty license.



C. The holder of such a license shall be entitled to perform all operations which *that* a person licensed to practice dentistry would be entitled to perform but only for the express purpose of teaching and that are part of their faculty duties. This includes all patient care activities associated with teaching, research, and the delivery of patient care and that take place only within educational facilities owned or operated by, or affiliated with, the dental school or program. A license holder who is educationally qualified for a specialty board certification shall only practice in the specialty in which he is qualified. This license does not entitle *permit* the holder to practice dentistry intramurally or privately or to receive fees for service in other offices or clinics.

D. Any license issued under this section shall expire on the June 30 of the second year after its issuance or shall terminate when the licensee leaves employment at the accredited dental program. Such license may be renewed annually thereafter as long as the accredited program certifies to the licensee's continuing employment.

§ **54.1-2714**. Restricted licenses for a temporary appointment to teach dentistry for foreign dentists.

A. The Board may grant, without examination, a restricted license *for a temporary appointment* to teach dentistry at a dental school in this Commonwealth to any person who:

1. Is a resident of a foreign country;
2. Is licensed to practice dentistry in a foreign country;
3. Holds a faculty appointment in a dental school in a foreign country;
4. Is a graduate of a foreign dental school or college or the dental department of a foreign college or university;
5. Is not licensed to practice dentistry in Virginia;
6. Has not failed an examination for a license to practice dentistry in this Commonwealth;
7. Has received a temporary appointment to the faculty of a dental school in this Commonwealth to teach dentistry;
8. Is, in the opinion of the Board qualified to teach dentistry; and
8. Is, in the opinion of the Board qualified to teach dentistry; and
9. Submits a completed application, the supporting documents the Board deems necessary to determine his qualifications, and the prescribed fee.

B. A restricted license shall entitle the licensee to perform all operations which a person licensed to practice dentistry may perform but only for the purpose of teaching. No person granted a restricted license shall practice dentistry intramurally or privately or receive fees for his services.

C. A restricted license granted pursuant to this section shall expire twelve months from the date of issuance and ~~may not be renewed or reissued~~ *may be renewed for one 12 month period.*

**§ 54.1-2725.** Faculty licenses to teach dental hygiene; renewals.

A. Upon payment of the prescribed fee, the Board shall grant, without examination, a license to teach dental hygiene to any applicant who (i) is a graduate of a dental hygiene school or college or the dental hygiene department of a college or university ~~approved by the Board of Dentistry~~ accredited by the Commission of Dental Accreditation of the American Dental Association; (ii) has a B.S., B.A., A.B., or M.S. degree and is otherwise qualified; (iii) is not licensed to practice dental hygiene; ~~and (iv) has not failed an examination for a license to practice dental hygiene in this Commonwealth;~~ and (v) has a license to practice dental hygiene in at least one other state United States jurisdiction. ~~The applicant shall be certified to be on the faculty of an approved institution that teaches dentistry or dental hygiene.~~

B. The dean or program director of the accredited dental hygiene program shall provide to the Board verification that the applicant is being hired by the program, and shall include an assessment of the applicant's clinical competency and clinical experience that qualifies the applicant for a faculty license.

C. The holder of such a license shall be entitled to perform all operations which ~~that~~ a person licensed to practice dental hygiene would be entitled to perform but only for the express purpose of teaching and that are a part of his faculty duties. This includes all patient care activities associated with teaching, research, and the delivery of patient care and that take place only within educational facilities owned or operated by, or affiliated with, the dental school or program. This license does not entitle the holder to practice dental hygiene intramurally or privately or to receive fees for services in other offices or clinics.

D. Any license issued under this section shall expire on the ~~second~~ June 30 of the second year after its issuance ~~but may be renewed or shall terminate when the licensee ceases employment at the accredited dental program.~~ Such license may be renewed annually thereafter as long as the accredited program certifies to the licensee's continuing employment.

2. That § 54.1-2714.1 of the Code of Virginia is repealed.

**§ 54.1-2714.1.** Faculty licenses to practice dentistry for full-time faculty members.

~~Pursuant to regulations promulgated by the Board, the Board may grant a faculty license to practice dentistry to full-time faculty members of schools of dentistry in the Commonwealth.~~

## VDA Legislation

5.1 It shall be prohibited for any dentist licensed in this Commonwealth to *knowingly* have a dental prosthetic appliance manufactured in or by a dental laboratory, in the Commonwealth or otherwise that does not meet the regulatory requirements of this Commonwealth.

12. **Resolution:** The current remote supervision of hygienists employed by the Virginia Department of Health be expanded to all Virginia Health Districts and the VDA continue to look for innovative solutions that will directly impact the access to care issue.

**REFERENCE COMMITTEE RECOMMENDATION: VOTE YES AS AMENDED-  
ADDITION OF THE FOLLOWING:**

*As part of the solution to improve access to care the House of Delegates recommends that the Board of Directors create a legislative initiative to increase funding for the Division of Dental Health for more public health dentists. This initiative should encourage placement of dentists in the public health districts of Southside, Cumberland Plateau and Lenowisko, as well as other areas of need. The initiative should be included in the 2012 VDA legislative agenda and the Board should report back to the House of Delegates in 2012 on the progress of the initiative.*

*Don't Charles*  
*Stall*  
*DALE ZAPATERO*  
*Paul*  
*12/18/11*

# **VIRGINIA DENTAL LABORATORY SAFETY ACT**

**Whereas**, this General Assembly finds that the health, safety and welfare of the citizens of this Commonwealth are promoted by the establishment of registration and disclosure procedures for the dental laboratory industry, it is hereby resolved that the following shall be enacted:

## **SECTION I. Purpose**

1.1 The purpose of this Act is to promote the health, safety and welfare of the citizens of this Commonwealth by requiring that all dental laboratories conducting business in this Commonwealth register with the Board of Dentistry in order to engage in the manufacture and repair of dental prosthetic appliances as hereinafter provided, and further; to disclose to the prescribing dentist the material content and any contraindications for purposes of ensuring the health and safety of the patient as well as the point of origin and location(s) of manufacture of the prescribed restoration.

## **SECTION II. Definitions**

2.1 Dental Laboratory: A commercial dental laboratory is any individual or business entity including but not limited to a corporation, partnership or sole-proprietor engaged in the manufacture or repair of dental prosthetic appliances on the prescription of and for a licensed dentist or the work authorization of another commercial dental laboratory.

2.2 Licensed Dentist: shall mean any person duly licensed to practice dentistry under any statute of this Commonwealth or practitioners licensed in other states.

2.3 Prescription: shall mean a written instrument executed by a licensed dentist and directed to a registered dental laboratory authorizing the manufacture or repair of a dental prosthetic appliance for such licensed dentist. A prescription may be handwritten and may be faxed or sent electronically using an electronic signature.

2.4 Work Order: shall mean a written instrument executed by a registered dental laboratory authorized by prescription by which such dental laboratory subcontracts all or part of the fabrication or repair of a dental prosthetic appliance authorized by prescription to another registered dental laboratory. A work order may be handwritten and may be faxed or sent electronically using an electronic signature.

## **SECTION III. Registration and Disclosure**

3.1 Upon the effective date of this Act, all dental laboratories with offices or facilities located within the Commonwealth of Virginia and all dental laboratories operating, doing business or intending to operate or do business within the Commonwealth of Virginia shall be required to register with the Board of Dentistry. The registration shall be valid for a two-year period; the Virginia Board of Dentistry shall set a reasonable registration fee.

3.2 In order to comply with this Act, a dental laboratory shall practice infectious disease control as required by OSHA.

3.3 A dental laboratory wherever located shall be considered as operating or doing business in this Commonwealth if its work product is prepared pursuant to a prescription originating from within this Commonwealth.

3.4 A dental laboratory shall disclose to the dentist the material content used in prescribed restorations with any contraindications for purposes of ensuring the health and safety of the patient. The dental laboratory shall provide the dentist with the FDA product registration number of the material, to be included in the patient's record.

3.5 A dental laboratory shall disclose to the dentist the point of origin and location(s) of manufacture of the prescribed restoration, whether partially or entirely manufactured by a foreign dental laboratory or any domestic ancillary dental laboratory.

3.6 Dental technician(s) employed, and under the direct supervision of a practicing dentist in the Commonwealth of Virginia, in office lab, or those acting in support of an educational setting, or involved in charity or non-profit work shall be exempt from registration. If these technicians conduct business with outside providers then they too will be required to register.

#### **SECTION IV. Prescription/Work Order Required**

4.1 No dental laboratory shall perform any manufacture or repair of dental prosthetic appliances for a licensed dentist without a valid prescription from the licensed dentist or a valid work order from a registered dental laboratory authorized by prescription.

#### **SECTION V. Use of Non-Registered Dental Laboratory Prohibited**

5.1 It shall be prohibited for any dentist licensed in this Commonwealth to knowingly have a dental prosthetic appliance manufactured in or by a dental laboratory, in the Commonwealth or otherwise that does not meet the regulatory requirements of this Commonwealth.

#### **SECTION VI. Non-Compliance Dental Laboratory Prohibited**

6.1 Dental laboratories are required to comply with the registration and disclosure requirements of this act. Non-compliant laboratories will be subject to disciplinary action by the Board of Dentistry.

#### **SECTION VII. Effective Date**

This Act shall become effective July 1, 2012.

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**TITLE 22****EXAMINING BOARDS****PART 5****STATE BOARD OF DENTAL EXAMINERS****CHAPTER 116****DENTAL LABORATORIES****RULE §116.3****Registration and Renewal**

(a) A dental laboratory shall be registered according to the provisions of Occupations Code, Subchapter D, §§266.151 - 266.154.

(b) The Dental Laboratory Certification Council (DLCC) shall review each application for registration or renewal of registration to determine if the applicant meets the requirements of Occupations Code, Chapter 266. Applications will be forwarded with a recommendation to the Board for registration if the requirements of Occupations Code, Chapter 266 and this chapter are met, and the following materials are submitted:

(1) A complete application or renewal, with all required information;

(2) proof of compliance with §116.6 of this chapter;

(3) the appropriate fee; and,

(4) effective January 1, 2009, for initial registrations only and once every three years for registration renewals, proof of completion of the Texas Jurisprudence Assessment for dental laboratories.

(c) It shall be the duty of each laboratory owner or manager to notify the Board in writing within 60 days of:

(1) a change in ownership or management of the laboratory;

(2) a change in location of the laboratory;

(3) closure of the laboratory;

(4) a change of designated CDT, in which case the notice must be accompanied by proof of current CDT certification for the replacement CDT;

(5) a change of designated employee, if the laboratory is exempted under §116.5 of this chapter. A change of designated employee will require proof within six (6) months of the change that the designated employee meets continuing education requirements; or

(6) a change in mailing address for the owner or manager of the laboratory.

(d) Any laboratory owner applying for a new laboratory registration who has pending fees and/or penalties due from a previous laboratory registration when such laboratory was closed for non-compliance with subsection (c) of this section must first remit to the Board any fees and penalties due on that previous registration before the new registration application will be considered by the DLCC.

(e) An initial registration certificate issued under this chapter on or after September 1, 2009 expires on the 30th day after the date the registration certificate is issued if the holder of the registration certificate fails to pay the required registration certificate fee on or before that date.

**Source Note:** The provisions of this §116.3 adopted to be effective May 10, 2004, 29 TexReg 4484; amended to be effective February 26, 2009, 34 TexReg 1246; amended to be effective February 3, 2010, 35 TexReg 642

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**TITLE 22****EXAMINING BOARDS****PART 5****STATE BOARD OF DENTAL EXAMINERS****CHAPTER 116****DENTAL LABORATORIES****RULE §116.4****Requirements**

(a) The following procedures, performed in relation to permitted dental laboratory services described in Occupations Code, §266.001, and pursuant to a written prescription from a licensed dentist, may be undertaken by a registered dental laboratory:

(1) Shade taking. Dental laboratories providing this service shall institute and maintain infection control procedures for in-laboratory shade verification to protect the patient and laboratory staff from infectious contamination. Each laboratory shall:

(A) Dedicate a specific area of the laboratory for performance of shade verification procedures.

(B) Maintain the area used for shade verification in a neat, clean, and clutter-free state at all times.

(C) Disinfect areas of patient contact both before and after each patient.

(D) Provide a dedicated set of shade guides to be used only for patient shade verification, and disinfect shade guides before and after each use.

(E) Provide a patient hand mirror for extraoral use, and disinfect the mirror before and after each patient's use.

(F) Use a disinfecting agent for cleaning shade guides that are accidentally dropped.

(G) Require that the technicians taking the shade wear protective clothing, including gloves.

(2) Computer imaging pertaining to the oral cavity by a registered laboratory. Computer imaging may be performed only when authorized by a written prescription from a licensed dentist. The result should be furnished to that dentist, accompanied by a disclaimer to the patient that computer imaging is an artistic interpretation and does not guarantee exact results.

(b) A dental laboratory shall furnish each licensed dentist from whom prescriptions are accepted with its permanent registration number and the expiration date of such registration, and shall maintain for a period of two years any work orders of any laboratory with which it contracts services. Each work order shall reflect the Texas registration number and registration expiration date of the contracted laboratory.

(c) No work may be outsourced, except to a dental laboratory registered under this chapter.

(d) A person owning or operating a laboratory in the State of Texas must maintain the entire laboratory in a clean and sanitary condition without any accumulation of trash, debris, or filth, and such premises shall be maintained in full compliance with all health requirements of the city or county, or both, in which such a laboratory is located and in conformity with the health laws of the State of Texas.

**Source Note:** The provisions of this §116.4 adopted to be effective May 10, 2004, 29 TexReg 4484



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(a) All dental laboratories must have a certified dental technician employed by and working on the premises of the dental laboratory a minimum of 30 hours per week.

(b) A dental laboratory is exempt from subsection (a) of this section if the laboratory is:

(1) owned by a licensed dentist engaged in the practice of dentistry in this state or by a professional corporation or partnership in which that dentist is an officer, partner, or employee; and

(2) located on the premises within which the dentist practices dentistry.

(c) The exemption under subsection (b) of this section does not apply to a dental laboratory if the laboratory employs three or more dental technicians.

(d) A dental laboratory is exempt from subsection (a) of this section if:

(1) the dental laboratory was registered with the Board on September 1, 1987;

(2) the dental laboratory's registration has been renewed each year and all registration fees have been paid;

(3) the beneficial ownership of at least 51% interest in the laboratory has not transferred; and

(4) the owner and/or the designated employee of the dental laboratory is employed on the premises of the laboratory for at least 30 hours per week.

(e) The owner of the dental laboratory shall maintain employment records validating compliance with this section for a period of not less than two years.

**Source Note:** The provisions of this §116.5 adopted to be effective May 10, 2004, 29 TexReg 4484; amended to be effective November 5, 2006, 31 TexReg 8835

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(a) A dental laboratory renewing a certificate must provide proof that the designated CDT has met the continuing education requirements of a recognized board of certification for dental technology, or its successor.

(b) A dental laboratory that meets the exemption qualifications in §116.5 of this chapter must provide, in lieu of the requirement of subsection (a) of this section, proof, that the designated employee has completed at least 12 hours of continuing education during the preceding 12-month period. Continuing education hours may only be used for one renewal period.

(c) Acceptable continuing education shall be comprised of business management, infection control, and technical competency courses presented in seminars or clinics as accepted by a recognized organization of dentistry or dental technology, subject to the following requirements:

(1) The designated employee must complete at least one course in regulatory compliance annually. Examples include courses in Infection Control, Occupational Safety and Health Administration (OSHA), Federal Drug Administration (FDA), Texas Jurisprudence, Cardiopulmonary Resuscitation (CPR) or Ethics.

(2) No more than one course in business management may be applied toward the annual continuing education requirement.

(3) Self-study in a course approved by a recognized organization of dentistry or dental technology may be taken for not more than four hours of the annual continuing education requirement.

(d) In lieu of furnishing proof of continuing education as set forth in subsection (c) of this section, a dental laboratory may furnish proof that the designated dental technician has a current certification from a recognized board of certification for dental technology or its successor. Certification as "retired" does not qualify the technician.

**Source Note:** The provisions of this §116.6 adopted to be effective May 10, 2004, 29 TexReg 4484; amended to be effective February 26, 2009, 34 TexReg 1246

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(a) It shall be the duty of the licensed dentist to insure that all removable prosthetic devices or removable orthodontic appliances delivered to a patient under his or her care bear a permanent identification marking suitable to determine that the prosthetic device or removable orthodontic appliance belongs to that patient.

(b) A suitable marking shall be defined as one that includes the patient's last name and first initial, and/or social security number. This marking shall be placed in the denture base of the removable prosthetic device or acrylic portion of the removable orthodontic appliance in such a manner as not to compromise the aesthetics of the restoration.

(c) The licensed dentist shall install this identification marking or shall request on the prescription to a registered dental laboratory that the laboratory place the identification marking in the removable prosthetic device or removable orthodontic appliance.

(d) Nothing in this rule shall preclude a dental laboratory from charging a fee for this service.

(e) This rule shall not apply to any removable prosthetic device or removable orthodontic appliance that contains no acrylic, vinyl or plastic denture base, or if said appliance is too small to reasonably accomplish this procedure.

(f) A dental laboratory that is required to register with the State Board of Dental Examiners shall clearly label or certify in writing to the prescribing dentist that the prosthesis or appliance being delivered to the prescribing dentist was either:

(1) manufactured entirely by the SBDE registered dental laboratory;

(2) manufactured in part or whole by a domestic laboratory inside of the United States; or,

(3) manufactured in part or whole by a foreign laboratory outside of the United States and clearly identify the country in which the dental laboratory work was performed.

(g) A dental laboratory that is required to register with the State Board of Dental Examiners may return to the dentist who issued the prescription written certification of all materials utilized in the prosthesis or appliance, including the percentage of each ingredient used in the fabrication of the prosthesis or appliance.

**Source Note:** The provisions of this §116.10 adopted to be effective May 26, 2005, 30 TexReg 3020; amended to be effective February 26, 2009, 34 TexReg 1247; amended to be effective December 22, 2010, 35 TexReg 11257

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(a) Each owner and manager named in an application to register a dental laboratory, irrespective of the person signing the application, is responsible for the proper registration and operation of the laboratory pursuant to the Dental Practice Act and these rules.

(b) For the purposes of this section, "owner" includes a person who has at least a 20 percent ownership interest in a dental laboratory that is registered under this chapter or for which an application for registration has been filed.

(c) The provisions of Occupations Code, Chapter 266, providing that persons violating the Dental Practice Act are subject to criminal penalties and subject to loss of registration or refusal by the board to issue a registration, apply to the owner and manager of any dental laboratory having or seeking registration in Texas.

**Source Note:** The provisions of this §116.20 adopted to be effective May 10, 2004, 29 TexReg 4484

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# Texas Administrative Code

**TITLE 22**      EXAMINING BOARDS  
**PART 5**        STATE BOARD OF DENTAL EXAMINERS  
**CHAPTER 116** DENTAL LABORATORIES

## Rules

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§116.2      Exemptions  
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The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) "Dental laboratory"--any place where a person performs, offers to perform or undertakes to perform any act or service listed in Occupations Code, §266.001, subject to the exemptions listed in §116.2 of this chapter.
- (2) "Dental student"--a person enrolled as a full-time student in an accredited dental school.
- (3) "Dental technician"--a person who performs the services as set out in Occupations Code, §266.001 including, but not limited to, a certified dental technician ("CDT") who has a current certificate issued by a recognized board of certification for dental technology, or its successor.
- (4) "Designated CDT of a dental laboratory"--the person so designated on the annual registration form of a CDT laboratory who meets the CDT certification requirement and minimum employment requirements of these rules.
- (5) "Designated employee of a dental laboratory"--the person so designated on the annual registration form of a dental laboratory exempted under §116.5 of this chapter, who meets the continuing education and minimum employment requirements of these rules.

**Source Note:** The provisions of this §116.1 adopted to be effective May 10, 2004, 29 TexReg 4484

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This chapter does not apply to:

- (1) a student enrolled in a program of a school of dentistry;
- (2) a licensed dentist engaged in the practice of dentistry in this state who performs a dental laboratory service for compensation or an employee of the dentist or of the professional corporation or partnership in which the dentist is an officer, partner, or employee if the service is performed:
  - (A) for a patient of the dentist or of the professional corporation or partnership in which the dentist is an officer, partner, or employee; and
  - (B) on the premises in which the dentist practices dentistry; or
- (3) a manufacturer of materials or component parts, used in the fabrication of a dental prosthetic appliance and for sale or use by a dental laboratory, that are not directly fitted to a dental model or cast of the human teeth, gums, jaws, or alveolar process.

**Source Note:** The provisions of this §116.2 adopted to be effective May 10, 2004, 29 TexReg 4484

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# TEXAS STATE BOARD OF DENTAL EXAMINERS



## Texas State Board of Dental Examiners

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### LABORATORIES INFORMATION

#### DENTAL LABORATORIES

[Click here to Renew Your Annual Dental Lab Registration](#)

#### GENERAL INFORMATION

A commercial dental laboratory and in-house laboratories with more than two technicians shall be registered with the State Board of Dental Examiners, in accordance with the Occupations Code at Chapter 266. Exemptions from this requirement include in-house labs providing services only for the patients of the employing dentist or other dentists within the practice.

#### NEW → JURISPRUDENCE REQUIREMENT FOR ALL DENTAL LABORATORIES

• **New Laboratories:** Effective January 1, 2009, all new laboratories conducting business in Texas will need to complete the SBDE Jurisprudence Assessment for Dental Laboratory Initial Registration before making application with the Dental Board. A copy of the Jurisprudence Assessment Certificate of Completion must be submitted with the Application for Registration of a Dental Laboratory.

• **Currently Registered Laboratories:** Effective January 1, 2009, currently registered dental laboratories have until January 1, 2012 to complete the SBDE Jurisprudence Assessment for Renewal of a Texas Dental Laboratory Registration. This assessment is to be completed once every three years for registration renewal. A copy of the Jurisprudence Assessment Certificate of Completion should be maintained on file with the Laboratory and made available upon request by the Dental Board.

**NBC Professional Development Credit Awarded.** One hour of Professional Development Credit is awarded by the National Board of Certification (NBC) in Dental Laboratory Technology for completion of the SBDE Jurisprudence Assessment. The NBC Professional Development Credit Course Number is found on every assessment Certificate of Completion. The Certificate of Completion can be printed immediately upon completing the assessment or you may log into your user account at a later date to print a copy.

#### Jurisprudence Assessments for Dental Laboratories Include:

- **Jurisprudence Assessment for Dental Laboratory Initial Registration**  
This assessment is intended to allow dental laboratories an opportunity to familiarize themselves with the Texas Occupations Code (statutes that govern the practice of this profession in Texas) and the Rules and Regulations of the Board for Initial Registration.
- **Jurisprudence Assessment for Renewal of a Texas Dental Laboratory Registration**  
This assessment is to be taken by current Texas dental laboratories fulfilling the jurisprudence requirement once every three years for registration renewal.


Click the "Continue" Button to Learn More and Take the online SBDE Jurisprudence Assessment:



**REQUIREMENTS FOR DENTAL LABS APPLYING FOR INITIAL REGISTRATION**

All individuals wishing to register a dental lab, must submit the following:

- 1) Complete Application for Dental Laboratory Registration (download below)
- 2) Proof of current and active certification for the designated CDT that will be on premises for at least 30 hours per week. A copy of the current CDT certification issued by the National Board of Certification ( [www.nadl.org](http://www.nadl.org) ) is acceptable.
- 3) **NEW** → Certificate of Completion of the SBDE Jurisprudence Assessment for Dental Laboratory Initial Registration. To learn more and take the SBDE Jurisprudence Assessment go to: [www.tsbde.texas.gov/Jurisprudence](http://www.tsbde.texas.gov/Jurisprudence)
- 3) Application fee of \$105.

FILE NAME	Acrobat File (PDF)
Application for Registration of a Dental Laboratory	

**APPLICATION PROCESSING TIME**

Processing time for applications is 7 to 10 days. All applications are forwarded to the Dental Laboratory Certification Council for review and approval. A registration certificate will be issued by the SBDE upon application approval.

**RULES PERTAINING TO DENTAL LABORATORIES**

Rules pertaining to Dental Laboratories can be found in the SBDE Rules and Regulations, Chapter 116. You can view these rules by clicking [HERE](#).

**LEARN ABOUT THE DENTAL LABORATORY CERTIFICATION COUNCIL**

The Dental Laboratory Certification Council is a statutory committee consisting of three Certified Dental Technicians that advise the State Board of Dental Examiners on matters relating to dental laboratories. To learn about the Council Membership and the laws pertaining to Dental Laboratories in Texas click [HERE](#).

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## Application for Registration of a Dental Laboratory

TEXAS STATE BOARD OF DENTAL EXAMINERS

333 Guadalupe, Tower 3, Suite 800

Austin, Texas 78701-3942

Phone: (512) 463-6400 / Fax: (512) 463-7452

Website: [www.tsbde.state.tx.us](http://www.tsbde.state.tx.us)

E-Mail: [information@tsbde.state.tx.us](mailto:information@tsbde.state.tx.us)

**Instructions:** Submit a copy of your SBDE Jurisprudence Assessment for Dental Laboratory Initial Registration Certificate of Completion with this application. ([www.tsbde.state.tx.us/Jurisprudence](http://www.tsbde.state.tx.us/Jurisprudence))

Mail your application package to the SBDE at the address listed above. All incomplete applications will be returned with no action. Fee is Non-Refundable. Make your payment to the Texas State Board of Dental Examiners.

If a question does not apply, indicate "N/A".

**Have Questions?** Visit our website at: [www.tsbde.state.tx.us](http://www.tsbde.state.tx.us)

**FEE: \$105**

PERSONAL CHECK OR  
MONEY ORDER ACCEPTED

DO NOT WRITE IN THIS SPACE

DLCC Review: \_\_\_\_\_

### LABORATORY INFORMATION

Each Lab must register separately. In-house labs which do work ONLY for their employing dentist are not required to register or pay fees to the SBDE.

LAB NAME: \_\_\_\_\_ OWNER NAME: \_\_\_\_\_  
DBA: \_\_\_\_\_ MAILING ADDRESS: \_\_\_\_\_  
(If Applicable) \_\_\_\_\_ CITY/ COUNTY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_  
MAILING ADDRESS: \_\_\_\_\_ OWNER'S TELEPHONE: \_\_\_\_\_  
CITY/ COUNTY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_ DATE LAB OPENED OR  
LABORATORY TELEPHONE: \_\_\_\_\_ WILL OPEN FOR BUSINESS: \_\_\_\_\_  
LABORATORY IS: \_\_\_\_\_ SOLE OWNER \_\_\_\_\_ DENTAL OFFICE \_\_\_\_\_ PARTNERSHIP \_\_\_\_\_ \*CORPORATION

IF CORPORATION THE STATE IN WHICH INCORPORATED: \_\_\_\_\_

IF SUBSIDIARY CORPORATION, GIVE NAME OF PARENT COMPANY, STATE IN WHICH CORPORATED, AND PERCENT OF STOCK PARENT COMPANY OWNS IN SUBSIDIARY

Parent Company \_\_\_\_\_ State Incorporated \_\_\_\_\_ % Stock Owned \_\_\_\_\_

**EMPLOYEE INFORMATION** NUMBER OF TECHNICIANS EMPLOYED: \_\_\_\_\_ NUMBER OF SUPERVISORS: \_\_\_\_\_  
NUMBER OF NON-TECHNICAL EMPLOYEES: \_\_\_\_\_ TOTAL NUMBER OF EMPLOYEES: \_\_\_\_\_

### OWNER / MANAGER INFORMATION

• Has the owner or manager ever been convicted of a misdemeanor or felony? Yes \_\_\_\_\_ No \_\_\_\_\_ If Yes, explain and provide court disposition documents: \_\_\_\_\_

• Has the applicant ever held a laboratory registration in Texas? If Yes, provide the following information:

Owner Name: \_\_\_\_\_ Manager Name: \_\_\_\_\_ Texas Lab Registration #: \_\_\_\_\_

Lab Name: \_\_\_\_\_ DBA (if applicable): \_\_\_\_\_

Lab Address: \_\_\_\_\_  
Number and Street City State Zip Code

I, the applicant herein, state that all the facts, statements, and answers contained in this application are true and correct. I am not omitting any information which might be of value to the Board in determining my qualifications, whether it is called for or not. I agree that any falsification, omission, or withholding of pertinent information or facts concerning my qualifications as an applicant shall be sufficient to bar me from registration by the State Board of Dental Examiners and such falsification, omission or withholding shall serve as sufficient grounds for the revocation, cancellation, or suspension of my Texas Laboratory Registration if it is not discovered until after issuance.

STATE OF \_\_\_\_\_ Name and Title Notarized Signature of Laboratory Owner or Manager (Required) Date  
COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared the applicant whose signature appears above and who being by me sworn upon oath says that all the facts, statements and answers contained in this application are true and correct.

Sworn and subscribed to before me, the said \_\_\_\_\_ this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to certify which witness my hand and seal of office.

(Seal)

NOTARY PUBLIC SIGNATURE

**CERTIFIED DENTAL TECHNICIAN INFORMATION**

(This section to be completed by the CDT of Record)

Section 266 of the Dental Practice Act requires that in order to qualify for registration by the SBDE, a commercial laboratory must employ a Certified Dental Technician, who must be on premises at least thirty (30) hours per week.

**ACCEPTABLE PROOF OF CDT WILL BE A COPY OF THE CURRENT CDT CERTIFICATION CARD WITH THE EXPIRATION DATE INDICATED.**

I, \_\_\_\_\_, will be the designated  
(NAME)

Certified Dental Technician (CDT) of record for the following dental laboratory:

\_\_\_\_\_  
(NAME OF DENTAL LABORATORY)

I understand that the Texas State Board of Dental Examiners (SBDE) Rules and Regulations require that I, as a the designated CDT, must be on premises of this laboratory a minimum of thirty (30) hours per week and that I may be asked to attest that I meet the requirement.

My CDT credential is active and currently registered with the National Board of Certification (NBC).

I am attaching a copy of my card with this application and acknowledge that it will be verified by a member of the SBDE staff.

If I cease employment with the laboratory, I understand it is in my best interest to immediately notify the SBDE of the change so my CDT credential can be removed from this laboratory registration.

All facts stated herein are true and correct to the best of my knowledge.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Certified Dental Technician Signature

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared the applicant whose signature appears above and who being by me sworn upon oath says that all the facts, statements and answers contained in this application are true and correct.

Sworn and subscribed to before me, the said \_\_\_\_\_ this the \_\_\_\_\_ day  
of \_\_\_\_\_, 20 \_\_\_\_\_, to certify which witness my hand and seal of office.

(Seal)

\_\_\_\_\_  
Notary Public Signature

Oklahoma

4. Establish the level of supervision, whether direct, indirect or general, under which the advanced procedures may be performed.
- F. A dental hygienist shall not own or operate an independent practice of dental hygiene.
- G. Nothing in the State Dental Act shall be construed to prohibit a dentist from performing any of the procedures that may be performed by a dental hygienist.

**§ 328.35 Repealed by Laws 1999.**

**§ 328.36 Permit to operate dental laboratory**

- A. 1. Any person, firm, corporation, partnership or other legal entity who desires to operate a dental laboratory in this state shall file with the Board of Dentistry, on a form prescribed by the Board, an application for a permit to operate a dental laboratory and pay the fee established by the rules of the Board. The application shall include the name and address of each person, firm, corporation, partnership or other legal entity who owns an interest in or will operate the dental laboratory. Upon receipt of the application and fee, the Board shall determine the qualifications of the applicant and may grant a permit to the applicant to operate a dental laboratory.
2. Except as provided in subsection C of this section, no person, firm, corporation, partnership or other legal entity shall operate a dental laboratory in this state without having obtained a permit from the Board.
- B. Any change in ownership, operation or location of a dental laboratory shall immediately be communicated to the Board, which shall endorse upon the permit, without further fee, the change in ownership, operation or location.
- C. Nothing in the State Dental Act shall be construed to:
  1. Prohibit a dentist from owning or operating a private, noncommercial dental laboratory in a dental office for the dentist's use in the practice of dentistry;

2. Require a dentist to obtain a permit from the Board for the operation of a dental laboratory in the office of the dentist unless dental laboratory technology is provided to persons other than the dentist at that location; or
3. Require a dentist to issue a laboratory prescription for dental laboratory technology to be performed by an employee of, in the office of, and for a patient of, the dentist.

**§ 328.36a Necessity for laboratory prescriptions forms and contents**

- A. A dentist may utilize a dental laboratory technician and a dental laboratory to perform or provide dental laboratory technology. Except as provided in subsection C of Section 328.36 of this title, a dentist who utilizes the services of a dental laboratory technician or dental laboratory shall furnish a laboratory prescription for each patient for whom a work product is prescribed.
- B. Laboratory prescriptions issued by a dentist shall be in duplicate on consecutively numbered forms approved by the Board of Dentistry and shall be completed in full and signed by the prescribing dentist. The owner of a dental laboratory shall retain each original laboratory prescription received from a prescribing dentist and produce the document for inspection and copying by a member of the Board or by an agent or employee of the Board, for a period of three (3) years from the date of the laboratory prescription. The prescribing dentist shall retain the duplicate copy of each laboratory prescription and produce the document for inspection and copying by a member of the Board or by an agent or employee of the Board, for a period of three (3) years from the date of the laboratory prescription.
- C. The number of the laboratory prescription shall appear on all dental models and correspond to all dental restorations, appliances or other devices being constructed, reproduced or repaired. Any dental model, restoration, appliance or other device in the possession of a dental laboratory technician or dental laboratory without a labora-

tory prescription and corresponding number on the model, restoration, appliance or device shall be prima facie evidence of a violation of the State Dental Act. After completion, the prescribed work product shall be returned by the dental laboratory technician or dental laboratory to the prescribing dentist or the dental office of the dentist with the name or number of the laboratory prescription accompanying the invoice.

**§ 328.37 Repealed by Laws 1996.**

**§ 328.38 Repealed by Laws 1996.**

**§ 328.39 Dental laboratory technicians  
— Grounds for penalties**

The following acts or occurrences by a dental laboratory technician shall constitute grounds for which the penalties specified in 'Section 328.44a of this title may be imposed by order of the Board of Dentistry:

1. Publishing a false, fraudulent or misleading advertisement or statement;
2. Performing dental laboratory technology at a location for which no permit to operate a dental laboratory has been issued by the Board, except as provided in subsection C of Section 328.36 of this title;
3. Performing dental laboratory technology without a laboratory prescription of a dentist, except as provided in subsection C of Section 328.36 of this title;
4. Failing to return a prescribed work product to the prescribing dentist or the dental office of the dentist;
5. Refusing to allow a member of the Board or an agent or employee of the Board to inspect laboratory prescriptions or dental restorations, appliances or other devices that are being constructed, reproduced or repaired;
6. Possessing dental equipment not necessary for performing dental laboratory technology;
7. Being dishonest in a material way with a dentist;  
or

8. Violating or attempting to violate the provisions of the State Dental Act or the rules of the Board, as a principal, accessory or accomplice.

<sup>1</sup>Title 59 O.S. §328.44(A)

**§ 328.39a Dental laboratory permit holders—  
Grounds for penalties**

The following acts or occurrences by a holder of a permit to operate a dental laboratory shall constitute grounds for which the penalties specified in <sup>1</sup>Section 328.44a of this title may be imposed by order of the Board of Dentistry:

1. Publishing a false, fraudulent or misleading advertisement or statement;
2. Providing dental laboratory technology at a location for which no permit to operate a dental laboratory has been issued by the Board, except as provided in subsection C of Section 328.36 of this Title.
3. Providing dental laboratory technology without a laboratory prescription of a dentist, except as provided in subsection C of Section 328.36 of this title;
4. Failing to return prescribed work product to a prescribing dentist or the dental office of the dentist;
5. Refusing to allow a member of the Board or an agent or employee of the Board to inspect laboratory prescriptions or dental restorations, appliances or other devices that are being constructed, reproduced or repaired;
6. Failing to retain an original laboratory prescription received from a prescribing dentist for a period of three (3) years from the date of the laboratory prescription, except that the failure to retain a document shall not be a violation of the State Dental Act if the owner of the dental laboratory shows that the document was lost, destroyed, or removed by another, without the consent of the owner;
7. Possessing dental equipment not necessary for performing dental laboratory technology;
8. Failing to pay fees as required by the State Dental Act or the rules of the Board;
9. Operating a dental laboratory without displaying, at the primary place of operation, a permit issued by the Board for the operation of the dental laboratory



- and the current renewal certificate;
10. Being dishonest in a material way with a dentist;  
or
  11. Violating or attempting to violate the provisions of the State Dental Act or the rules of the Board, as a principal, accessory or accomplice.
- <sup>1</sup>Title 59 O.S. §328.44(A)

**§ 328.40 Repealed by Laws 1999.**

**§ 328.41 Renewal certificate – Fee – Waiver  
Automatic cancellation**

- A. On or before the first day of January of each year, every dentist and dental hygienist licensed to practice in this state shall transmit to the secretary-treasurer of the Board of Dentistry, upon a form prescribed by the Board, the signature of the dentist or dental hygienist, current mailing address, principal office address, the number of the license of the dentist or dental hygienist, a statement whether he or she has been engaged during the preceding year in the active and continuous practice of dentistry or dental hygiene whether within or without this state, and such other information as may be required by the Board, together with an annual renewal fee established by the rules of the Board. Upon receipt of the annual renewal fee, the Board shall issue a renewal certificate authorizing the dentist or dental hygienist to continue the practice of dentistry or dental hygiene, respectively, in this state for a period of one (1) year.
- B. Upon failure of a dentist or dental hygienist to pay the annual renewal fee within two (2) months after January 1, the Board shall notify the dentist or dental hygienist in writing by certified mail to the last-known mailing address of the dentist or dental hygienist, as reflected in the records of the Board.
- C. A license granted under authority of this or any prior dental act shall automatically be canceled if the holder thereof fails to secure a renewal certificate within three (3) months from the 31st day of December of each year. Any dentist or dental hygienist whose license is automatically canceled